IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 20139 of 2004

Between:

M/s. VASANTH MAHAL, ELURU.
West Godavari District, Rep. by its Managing Partner,
Mr. K. Prabhakara Rao, S/o. Venkata Ratnam, Aged 65 Years,

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Secretary,
Law Department,Secretary Buildings, Saifabad. Hyderabad.
2 The State Representative, Before the Sales Tax Appellate Tribunal,
O/o. The Commissioner of Commercial Taxes, Excise - Commercial Taxes Building, Nampally, Hyderabad.
3 The Appellate Deputy Commissioner of Commercial Taxes, Moghairajpuram, Vijayawada. Krishna district.
4 The Commercial Tax Officer, Eluru.
West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction particularly in the nature of Writ of Mandamus declaring the amendments made to Section-19 and 21 of the APGST Act by way of insertion of provisions in the year 1997 with effect from 04-01-1997

curtailing the powers of the appellate authorities in regard to the delay condonation as illegal, arbitrary and discriminating and unconstitutional, violating Article -141, 19(1) (g), and 227 of the Constitution of India and consequently set aside the proceedings of the second and third respondents passed on 28-04-2004 in T.A.Nos. 1445, 1446, 1447 of 1999 affirming the orders of the Appellate Deputy Commissioner (CT), Vijayawada dated 21-03-1998 in Spl.No.'sELR/201, 202, 203/97-98 rejecting the admission of the appeals filed by the petitioner relating to assessment years 1983-1984 to 1985-1986 and direct the Appellate Deputy Commissioner (CT), Vijayawada to entertain the appeals and dispose of the same on merits in accordance with the law.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondent Nos.1 to 4: SPECIAL GOVERNMENT PLEADER for COMMERCIAL TAXES.

The Court, at the stage of admission, made the following:

ORAL ORDER:- (Per: The Hon'ble Mr. Justice Bilal Nazki)

In this writ petition, the provisions of Section19 (1) and 21(2) of the Andhra Pradesh General Sales Tax Act, 1957 have been challenged. Both the sections are *pari materia* to each section and relate to the power of condonation of delay by the appellate authority. Both the provisions were considered by this court in *REKHA TEMBER DEPOT vs., D.C.T.O. (A.P.)* ([1]) and have been held to be constitutionally valid. Therefore, the writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs.

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BILAL NAZKI, J

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S. ANANDA REDDY, J

Dt. 03-11-2004

Pvks/*

To

1. The Secretary, Law Department, the Government of Andhra Pradesh,
   Secretariat Buildings, Saifabad, Hyderabad.
2 The State Representative, Before the Sales Tax Appellate Tribunal,
   O/o. The Commissioner of Commercial Taxes, Excise - Commercial Taxes Building, Nampally, Hyderabad.
3 The Appellate Deputy Commissioner of Commercial Taxes, Moghairajpuram, Vijayawada. Krishna district.
4 The Commercial Tax Officer, Eluru.
   West Godavari District.

5..2CCs to Special Government Pleader for Commercial Taxes, A.P. High Court Buildings, Hyderabad (OUT).

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